

K. Michael Hays Final Designations

Designation List Report



Hays, Deposition

2022-11-21

Plaintiff Direct	00:44:30
TOTAL RUN TIME	00:44:30



MH_FINAL - K. Michael Hays Final Designations

DESIGNATION	SOURCE	DURATION	ID
5:12 - 8:22	Hays, Deposition 2022-11-21	00:04:14	MH_FINAL.1
5:12	Q. Good morning, Professor Hays. Thank		
5:13	you for being available for this video trial		
5:14	deposition.		
5:15	A. Good morning. Thank you.		
5:16	Q. I understand you currently have some		
5:17	medical restrictions; is that correct?		
5:18	A. I do. I had a very traumatic injury to my		
5:19	leg last year, and I'm still unable to bear any		
5:20	weight on it, so I'm basically in a chair.		
5:21	Q. Okay. And where are you currently		
5:22	located?		
5:23	A. Right now I'm on Cape Cod, in Truro,		
5:24	Massachusetts. There are no stairs here.		
6:01	Q. Okay. That makes sense. Thank you.		
6:02	Even though I understand you're		
6:03	on a leave of absence right now, could you describe		
6:04	what your current academic position is?		
6:05	A. Yes. I am Eliot Noyes Professor of		
6:06	Architectural Theory. Architectural theory is very		
6:07	like architectural history, but with more of a		
6:08	philosophical background.		
6:09	I'm also program director of a		
6:10	post-professional program at GSD called the Master		
6:11	of Design Studies.		
6:12	Q. Okay. And did you hold those		
6:13	positions in 2011 and 2012?		
6:14	A. I held the first, the chaired professorship.		
6:15	Before I was program director, I was associate dean		
6:16	for the Graduate School of Design, and I held that		
6:17	position -- I had just started that position during		
6:18	the events around the letter.		
6:19	Q. Okay. And you may have said this when		
6:20	you were describing your position, but did you		
6:21	identify the university where you were?		
6:22	A. I work at the Graduate School of Design at		
6:23	Harvard University.		
6:24	Q. Have you served as an external		
7:01	reviewer for tenure candidates at other		
7:02	institutions?		

MH_FINAL - K. Michael Hays Final Designations

DESIGNATION	SOURCE	DURATION	ID
7:03	A. I have, yes.		
7:04	Q. Can you give me a sense of how often		
7:05	you've done that?		
7:06	A. Every year there will be probably as many as		
7:07	five letters solicited. Less lately, but I would		
7:08	say -- so I've done hundreds of these in my career.		
7:09	Q. How do you know Cathrine Veikos?		
7:10	A. Cathrine was actually -- I have many, many		
7:11	students, obviously, but Cathrine was a bit of a		
7:12	special student in this sense. I teach a required		
7:13	history course, and at that time it was about 80		
7:14	people. And at that time we did not have doctoral		
7:15	teaching fellows as we do now. So what I would do		
7:16	is look at the record of the Master's of		
7:17	Architecture students who did well in history		
7:18	courses and from that record would nominate people		
7:19	to be a teaching assistant for the history course,		
7:20	the required history course, the large one. And		
7:21	Cathrine was one of the students that I nominated to		
7:22	be a teaching fellow.		
7:23	So in that sense I worked close		
7:24	with her for a couple of years and knew her, you		
8:01	know, better than most students.		
8:02	Q. Okay. And did you stay in touch with		
8:03	Cathrine Veikos when she went to Penn?		
8:04	A. I did, but there was not a lot of		
8:05	correspondence. I knew of her position. I did		
8:06	follow her work. It was -- we corresponded, but		
8:07	not -- I would say not very frequently.		
8:08	(Whereupon P-32 was marked for		
8:09	identification.)		
8:10	BY MS. UEBLER:		
8:11	Q. Okay. Can you take a look at the		
8:12	document that we've already marked as Exhibit P-32.		
8:13	It's one page. It has a reference to Hays 15 at the		
8:14	bottom.		
8:15	A. Yes. I have it here.		
8:16	Q. Okay. What is that document?		
8:17	A. It looks like a calendar entry for a		
8:18	consultation, a phone call, between me and		
8:19	Cathrine Veikos on July 21st, 2011.		

MH_FINAL - K. Michael Hays Final Designations

DESIGNATION	SOURCE	DURATION	ID
	8:20 Q. Okay. And do you recognize that as		
	8:21 being from your calendar?		
	8:22 A. I do.		
9:04 - 12:02	Hays, Deposition 2022-11-21	00:03:57	MH_FINAL.2
	9:04 Q. Do you recall speaking with		
	9:05 Cathrine Veikos that day, July 21st, 2011?		
	9:06 A. I do recall the conversation.		
	9:07 Q. What do you recall about it?		
	9:08 A. Well, I do recall it was -- okay, I said I		
	9:09 recall it.		
	9:10 There are two conversations that		
	9:11 I recall. This one, I believe, was a consultation		
	9:12 about her tenure case, just trying to give some		
	9:13 advice of how to present her case most effectively,		
	9:14 how to frame her work, which included different		
	9:15 aspects of architecture, including history and		
	9:16 design, and just how to frame those different		
	9:17 dimensions of her work for a tenure case.		
	9:18 Q. Do you recall speaking to her in the		
	9:19 summer of 2011 about any concerns relating to her		
	9:20 focus on Lina Bo Bardi as a subject?		
	9:21 A. Well, this -- you know, this is not		
	9:22 univalent, let's say. Lina Bo Bardi -- the		
	9:23 excitement -- I was actually quite excited to hear		
	9:24 about Cathrine's research into the work of		
	10:01 Lina Bo Bardi, who was an Italian immigrant who went		
	10:02 to Brazil, probably one of the best -- one of the		
	10:03 best architects -- say, top 20 maybe -- of her time		
	10:04 and completely unstudied by the historical		
	10:05 establishment. So I was extremely interested that		
	10:06 Cathrine had found material, including some writing.		
	10:07 So I remember that very well and was very excited.		
	10:08 At the same time, Cathrine does		
	10:09 not have a Ph.D. She, as I said, did very well in		
	10:10 the history courses, and I think turned out to be a		
	10:11 very good scholar, but she did not have a Ph.D., as		
	10:12 would be required to be, let's say, a straight		
	10:13 historian.		
	10:14 So Cathrine was carving out a		
	10:15 scholarly position, which is common in architecture		

MH_FINAL - K. Michael Hays Final Designations

DESIGNATION	SOURCE	DURATION	ID
10:16	and has been historically, insofar as architecture,		
10:17	being both a profession and an academic subject.		
10:18	She was trying to embrace both the professional and		
10:19	the scholarly dimension. And this is not unusual or		
10:20	uncommon. It just takes some focus and clarity.		
10:21	And these were the things we talked about, how to		
10:22	keep those things together.		
10:23	Q. Did you learn at the time you spoke to		
10:24	Professor Veikos in 2011 that she had already been		
11:01	considered for tenure at Penn at that point?		
11:02	A. I do not recall that. I do not recall --		
11:03	the only thing I remember clearly is the -- maybe		
11:04	I'm jumping the gun here, Julie. Sorry --		
11:05	Q. No. Go ahead. I mean, do you		
11:06	remember -- so it would have been summer of 2011,		
11:07	the conversation you've just been telling us about.		
11:08	Do you recall in that context learning from her		
11:09	whether or not she was previously considered for		
11:10	tenure?		
11:11	A. I do not recall --		
11:12	Q. Okay.		
11:13	A. -- that I knew that.		
11:14	Q. Okay. Thank you. Let's take a look		
11:15	at another document. This is Exhibit P-33. It's		
11:16	also one page. The number at the bottom right		
11:17	corner is Veikos 2223.		
11:18	A. Yes.		
11:19	(Whereupon P-33 was marked for		
11:20	identification.)		
11:21	BY MS. UEHLER:		
11:22	Q. Do you recognize this e-mail at all?		
11:23	A. I do.		
11:24	Q. Okay. This is an e-mail that		
12:01	Professor Veikos sent to you in January of 2012?		
12:02	A. That's right.		
12:09 - 14:09	Hays, Deposition 2022-11-21	00:02:40	MH_FINAL.3
12:09	Q. All right. Let's take a look, if we		
12:10	could, Professor Hays, at the top of this e-mail, in		
12:11	that first paragraph. In her second sentence she		
12:12	says, "I want to thank you again for your review of		

MH_FINAL - K. Michael Hays Final Designations

DESIGNATION	SOURCE	DURATION	ID
12:13	my work."		
12:14	What did you understand her to		
12:15	be referring to there?		
12:16	A. Well, I knew we were talking about a tenure		
12:17	case at that point, and Cathrine seemed to think		
12:18	that I had been one of the referees.		
12:19	In fact, I had not been called		
12:20	upon to be a referee. So it wasn't that surprising		
12:21	because, you know, I'm in the field and I know her,		
12:22	that I might have been called upon, but I wasn't.		
12:23	But I didn't -- it struck me -- I didn't find it		
12:24	unusual.		
13:01	And I didn't say anything		
13:02	because most schools that I know of do not		
13:03	necessarily want the candidates to know who all the		
13:04	referees are. So I just kept quiet and tried to		
13:05	sympathize and congratulate her. She already had a		
13:06	new position.		
13:07	So that's what I remember, was		
13:08	trying to, you know, sympathize a bit, without		
13:09	actually telling her that I did not, in fact, write		
13:10	and had not been called upon to write.		
13:11	Q. Okay. When you say "referee," is that		
13:12	the same thing as an external reviewer?		
13:13	A. Yes. I'm sorry.		
13:14	Q. Okay. No problem. I just want to		
13:15	clarify that. Okay.		
13:16	So at this point, let's take a		
13:17	look at the third paragraph. She says, "I haven't		
13:18	had any updates from Penn on the status of my tenure		
13:19	review, so I'm applying for positions," and she		
13:20	lists some things. And she also previously said		
13:21	that she had been teaching somewhere else, as you		
13:22	mentioned in your testimony.		
13:23	At this point, did you		
13:24	understand that she was no longer employed by Penn		
14:01	but was undergoing a tenure review?		
14:02	A. My memory is, Ms. Uebler, that she had not		
14:03	gotten tenure and had another job. I did not		
14:04	realize that there would be a second tenure review.		
14:05	Q. Okay. Have you ever been an		

MH_FINAL - K. Michael Hays Final Designations

DESIGNATION	SOURCE	DURATION	ID
	14:06 external reviewer when the tenure candidate was not		
	14:07 currently employed by the institution considering		
	14:08 tenure?		
	14:09 A. No.		
14:18 - 14:19	Hays, Deposition 2022-11-21	00:00:08	MH_FINAL.4
	14:18 Q. Let's take a look at another document.		
	14:19 This one has been marked as Exhibit P-34.		
15:15 - 15:17	Hays, Deposition 2022-11-21	00:00:05	MH_FINAL.5
	15:15 Q. All right. And do you recognize this		
	15:16 e-mail exchange?		
	15:17 A. I do.		
15:22 - 16:19	Hays, Deposition 2022-11-21	00:01:07	MH_FINAL.6
	15:22 Q. Professor Hays, if you can take a look		
	15:23 at Professor Veikos' e-mail to you, it starts out,		
	15:24 "Hope this note finds you well." And in the second		
	16:01 sentence there, it says, "Thank you so much for		
	16:02 reviewing my tenure package for UPenn."		
	16:03 At this point, did you have any		
	16:04 communication with Professor Veikos about serving as		
	16:05 an external reviewer in her case?		
	16:06 A. I did not.		
	16:07 Q. Had you been asked to be an		
	16:08 external reviewer at that point?		
	16:09 A. I did not recall having been asked.		
	16:10 Q. Did you ever tell her in response to		
	16:11 this e-mail that you were not asked to be an		
	16:12 external reviewer?		
	16:13 A. I did not mention that. I didn't think it		
	16:14 was appropriate.		
	16:15 Q. Did anyone at Penn ever contact you to		
	16:16 serve as one of Professor Veikos's external		
	16:17 reviewers at any time?		
	16:18 A. No, I don't recall any time that they		
	16:19 contacted me.		
17:06 - 17:13	Hays, Deposition 2022-11-21	00:00:15	MH_FINAL.7
	17:06 Q. Did any -- we established		
	17:07 that you understand -- it was your experience that		
	17:08 you were never asked to serve as an external		
	17:09 reviewer, correct?		

MH_FINAL - K. Michael Hays Final Designations

DESIGNATION	SOURCE	DURATION	ID
	17:10 A. I did. Okay.		
	17:11 Q. And I just want to understand, and I		
	17:12 want you to be able to tell the jury, why you		
	17:13 believe that never happened.		
17:16 - 20:11	Hays, Deposition 2022-11-21	00:03:10	MH_FINAL.8
	17:16 THE WITNESS: Okay. Thank you.		
	17:17 There are two reasons that I		
	17:18 feel confident about my memory. The first,		
	17:19 which I've mentioned, is that Cathrine,		
	17:20 though we had -- we didn't correspond, I		
	17:21 would say, regularly -- there was no regular		
	17:22 correspondence -- I do remember her quite		
	17:23 vividly and well, simply because of the		
	17:24 relationship of working with her as a		
	18:01 teaching assistant and my interest in the		
	18:02 work.		
	18:03 The one thing I think is worth		
	18:04 mentioning, if I may, both of you, is that, I		
	18:05 don't want to make too much about		
	18:06 Lina Bo Bardi, except that scholarship on		
	18:07 her, some of us knew, was about to become --		
	18:08 about to explode. Things were about to		
	18:09 happen with the scholarship there. So I was		
	18:10 very excited.		
	18:11 So that's the first reason I		
	18:12 know that had I been asked to think, reflect		
	18:13 on Cathrine's work, I would have done that		
	18:14 happily because I was very excited about this		
	18:15 work.		
	18:16 The second is, I won't claim to		
	18:17 be overly organized in my e-mail. What I		
	18:18 will claim is never to erase it. And I had		
	18:19 e-mail -- many e-mails from the time,		
	18:20 including some from David Leatherbarrow about		
	18:21 another case, and so I remember vividly the		
	18:22 time and Penn asking for other material.		
	18:23 So together, those two things		
	18:24 make me feel pretty sure that, had I been		
	19:01 asked, I would have remembered.		
	19:02 And there's no written		

MH_FINAL - K. Michael Hays Final Designations

DESIGNATION	SOURCE	DURATION	ID
	19:03 correspondence.		
	19:04 And I'll mention one more thing,		
	19:05 if I may.		
	19:06 BY MS. UEHLER:		
	19:07 Q. Please.		
	19:08 A. Just to be thorough. I did have a full-time		
	19:09 administrative assistant at that point. And she was		
	19:10 someone who could receive all my e-mails directly.		
	19:11 So even if I had missed it, Stacy Buckley, was her		
	19:12 name, would have caught any requests like that.		
	19:13 Q. Okay. Thank you. Why don't we take a		
	19:14 look at the next exhibit, which is Exhibit P-35.		
	19:15 A. Yes.		
	19:16 (Whereupon P-35 was marked for		
	19:17 identification.)		
	19:18 BY MS. UEHLER:		
	19:19 Q. This packet of documents is labeled		
	19:20 Hays 1 through 6.		
	19:21 A. Yes.		
	19:22 Q. Are these e-mails and documents that		
	19:23 you produced in response to a subpoena from Penn		
	19:24 about this case?		
	20:01 A. Yes. There are several e-mails, and I think		
	20:02 it's part of the same package -- it's still 35 -- it		
	20:03 also included a letter of reference for another		
	20:04 case.		
	20:05 Q. Right. And what do these documents		
	20:06 that are P-35, Hays 1 through 6, which professor do		
	20:07 these relate to?		
	20:08 A. These relate to Helene Furjan -- I'm not		
	20:09 positive about the pronunciation, but I believe it's		
	20:10 Furjan -- for also a tenure case at Penn, with a		
	20:11 date being also in January, 2012.		
20:16 - 21:13	Hays, Deposition 2022-11-21	00:01:22	MH_FINAL.9
	20:16 Q. All right. Looking at these		
	20:17 documents, if you could, Professor Hays, when did		
	20:18 Professor Leatherbarrow first request that you serve		
	20:19 as an external reviewer for Professor Furjan?		
	20:20 A. It looks like it was around -- let's see, I		
	20:21 believe I have the first one -- October 5th, 2011.		

MH_FINAL - K. Michael Hays Final Designations

DESIGNATION	SOURCE	DURATION	ID
20:22	Q. Okay. And did he -- did he send any		
20:23	follow-up e-mails to you?		
20:24	A. He did, as late as -- as late as		
21:01	January 10th, 2012, and then again on Friday, 21st		
21:02	of Oct -- oh, no. Sorry. Friday, 21st of October,		
21:03	2011; and then again, January, 2012, he was sending		
21:04	me reminders.		
21:05	Q. Okay. And did you submit the review		
21:06	letter for Professor Furjan?		
21:07	A. I did. Finally, in January of 2012, I		
21:08	submitted the letter.		
21:09	Q. Okay. And is that letter within P-35,		
21:10	marked Hays 4 and 5?		
21:11	A. At least in my organization it is part of		
21:12	that package, yes. It's the fourth and fifth page.		
21:13	Or -- yes.		
25:16 - 25:18	Hays, Deposition 2022-11-21	00:00:04	MH_FINAL.10
25:16	MS. UEBLER: Thank you,		
25:17	Professor. I don't have any further		
25:18	questions.		
42:19 - 45:03	Hays, Deposition 2022-11-21	00:03:17	MH_FINAL.11
42:19	Q. It looks like above your January 13		
42:20	letter, there is an e-mail to you from Tanya Yang.		
42:21	Do you know who Tanya Yang is?		
42:22	A. I only know that she was -- from the con --		
42:23	only from the context, must have been David's -- one		
42:24	of David's assistants.		
43:01	Q. Okay. Did you know her personally?		
43:02	A. No.		
43:03	Q. If you had gotten an e-mail from		
43:04	Tanya Yang asking you to write an external review		
43:05	for Cathrine Veikos, do you think that could be		
43:06	something you might have missed because you didn't		
43:07	recognize her name?		
43:08	A. No. Because her first sentence would have		
43:09	been, "I am writing at the request of		
43:10	David Leatherbarrow," who is dean, and the request		
43:11	for tenure letter must come from the dean. So she		
43:12	would have made some reference.		
43:13	I would not have necessarily		

MH_FINAL - K. Michael Hays Final Designations

DESIGNATION	SOURCE	DURATION	ID
43:14	read right away the e-mail from Tanya Yang, but it		
43:15	would have David copied -- or, I'm sorry, would have		
43:16	the dean copied probably and have his name in the		
43:17	first line, and I would have seen that. I would		
43:18	have seen that.		
43:19	Q. If you read the e-mail in the first		
43:20	place, you would have known that Tanya Yang worked		
43:21	for David Leatherbarrow, right?		
43:22	A. Right. Right.		
43:23	Q. Okay. But you around that -- well,		
43:24	actually, a couple months earlier, wrote to		
44:01	David Leatherbarrow to say you were too overworked		
44:02	to read all your e-mails, right?		
44:03	A. I think -- I think, Mr. Banks, the word		
44:04	"read e-mails" can mean a lot of things. You know		
44:05	how to -- we all know how to scan quickly as we're		
44:06	browsing through the e-mails, and you can get		
44:07	enormous information reading diagonally.		
44:08	I don't think I ever deleted an		
44:09	e-mail without browsing it unless it's clearly spam,		
44:10	which also takes half a second to -- I just think		
44:11	any -- any e-mail coming from any person from		
44:12	upenn.edu I would stop at. No doubt about it. And		
44:13	then if it's -- and then I go from there.		
44:14	I'm not trying to say that I		
44:15	have perfect response time. What I'm suggesting is		
44:16	that, in academia, to wait for a week is not		
44:17	unusual.		
44:18	To wait for 16 days is a little		
44:19	irritating. But everybody -- I mean, look at the		
44:20	timing of this. This was, you know, the height of		
44:21	the fall -- yes, I was busy. Yes, I was finessing		
44:22	some e-mails. But I absolutely did attend to it		
44:23	when I possibly -- when I could. The letter for		
44:24	Furjan.		
45:01	So I don't want to be so		
45:02	apologetic about the delay. It's timing in academic		
45:03	time.		
25:22 - 27:13	Hays, Deposition 2022-11-21	00:02:08	MH_FINAL.12
25:22	Q. Professor Hays, are you aware, as of		

MH_FINAL - K. Michael Hays Final Designations

DESIGNATION	SOURCE	DURATION	ID
25:23	this time, that Cathrine Veikos was reviewed for		
25:24	tenure on two different occasions at Penn?		
26:01	A. I am now aware of that, yes.		
26:02	Q. The first in 2011 and the second in		
26:03	2012?		
26:04	A. That's right.		
26:05	Q. Is it your understanding that		
26:06	candidates for tenure review have an opportunity to		
26:07	request or recommend certain reviewers? In other		
26:08	words, that a candidate can ask that certain		
26:09	professors outside of Penn review them for tenure?		
26:10	A. Yes. I think almost every school has --		
26:11	gives the candidate an opportunity, and certainly my		
26:12	understanding is that Penn does that.		
26:13	Q. And you mentioned that you believed		
26:14	you were well-suited to conduct a review on		
26:15	Cathrine Veikos's work?		
26:16	A. I do. I do feel I was suited, yes.		
26:17	Q. Do you know whether Professor Veikos		
26:18	asked to have you as one of her reviewers in 2011?		
26:19	A. I do not know that directly. I assumed that		
26:20	was the case from the letter of January, two		
26:21	thousand -- now I'm getting the two letters mixed		
26:22	up. But she does mention that in one of her e-mail		
26:23	correspondences. She thanks me for reviewing the		
26:24	package. So I assumed that she thought that I had.		
27:01	Q. Okay. That was in 2012 that she		
27:02	thanked you for --		
27:03	A. Yes, that's right.		
27:04	Q. -- reviewing her work.		
27:05	Do you know whether, in the		
27:06	prior review in 2011, the review that was conducted		
27:07	in the spring of 2011, she asked that you be one of		
27:08	her external reviewers? Do you know whether she did		
27:09	or didn't?		
27:10	A. I do not know about that case at all because		
27:11	I received nothing from her. As far as I know, I		
27:12	don't think I received anything from her during that		
27:13	time.		
28:23 - 30:23	Hays, Deposition 2022-11-21	00:03:05	MH_FINAL.13

MH_FINAL - K. Michael Hays Final Designations

DESIGNATION	SOURCE	DURATION	ID
28:23	Q. Is objectivity important for an		MH_FINAL.13
28:24	external reviewer?		
29:01	A. Absolutely. But objectivity -- no one		
29:02	thinks that anyone has provable, verifiable data to		
29:03	say that someone -- it is a judgment call. It is		
29:04	absolutely a judgment call.		
29:05	Q. Professor Veikos asked you for		
29:06	assistance in connection with her preparation of her		
29:07	case for tenure; is that right?		
29:08	A. Yes.		
29:09	Q. What kind of assistance did she ask		
29:10	for?		
29:11	A. I think someone who has never gone through a		
29:12	tenure promotion usually faces, for the very first		
29:13	time, not just their own department, which, of		
29:14	course, they would know well, and the values and		
29:15	kind of approach of that department. They also, for		
29:16	the first time, are going to face the		
29:17	university-level evaluation by senior colleagues		
29:18	that will not be in their field. And so it's very		
29:19	important that the teaching record, the publication		
29:20	record, and the future research program are not		
29:21	identical, because that would be too narrow, but		
29:22	have some common intellectual frame.		
29:23	And that's often very hard to do		
29:24	when you're trying to explain your work to someone		
30:01	who may come from the sciences -- in the case of		
30:02	Penn, she probably has engineers or scientists on		
30:03	her committee -- but also people from comparative		
30:04	literature.		
30:05	So it's very important and		
30:06	difficult that you frame your work for people who		
30:07	are not in your field. And I think that's the		
30:08	advice that I would try to have given her. That I		
30:09	would have given her.		
30:10	Q. If you had been asked by Penn to do an		
30:11	external review letter for Cathrine Veikos, would		
30:12	you have disclosed that she had been a student of		
30:13	yours, that you had selected her to be a teaching		
30:14	assistant, that you had remained in touch with her		
30:15	over the years, and that you helped her to position		

MH_FINAL - K. Michael Hays Final Designations

DESIGNATION	SOURCE	DURATION	ID
	30:16 her tenure case favorably as she was getting ready		
	30:17 to present it to others at Penn?		
	30:18 A. Yes, I think one is obliged to be absolutely		
	30:19 open and thorough in describing your relationship to		
	30:20 the candidate, yes. And I would have -- yes, it's		
	30:21 not unusual, and I would have, without thinking		
	30:22 twice, said -- say that I absolutely consulted her.		
	30:23 She would -- yes.		
31:16 - 31:21	Hays, Deposition 2022-11-21	00:00:18	MH_FINAL.14
	31:16 Have you read any of the other		
	31:17 external reviews of Cathrine Veikos that were		
	31:18 submitted to Penn either in 2011 or 2012?		
	31:19 A. I have not. Those should be absolutely		
	31:20 confidential, as far as I -- and I have not seen		
	31:21 them.		
32:05 - 36:09	Hays, Deposition 2022-11-21	00:05:44	MH_FINAL.15
	32:05 Q. Have you talked to anyone at Penn, any		
	32:06 members of either the architecture department or the		
	32:07 School of Design, to discuss how they voted on		
	32:08 Professor Veikos's candidacy or why they voted a		
	32:09 certain way?		
	32:10 A. No. No, no, no. I don't think one would do		
	32:11 that, unless -- I don't think one would ask that or		
	32:12 do that, no.		
	32:13 Q. Do you have any information on how		
	32:14 other faculty members, committee members, department		
	32:15 chairs, or deans at Penn voted on Professor Furjan's		
	32:16 case, other than being told by her that she --		
	32:17 excuse me -- that she was not granted tenure?		
	32:18 A. I've had no correspondence or communication		
	32:19 or information about her case or its outcome from		
	32:20 the school.		
	32:21 Q. You told us that you do not recall		
	32:22 receiving an e-mail asking you to do a review on		
	32:23 Cathrine Veikos in 2011 or 2012, correct?		
	32:24 A. That's correct.		
	33:01 Q. Do you get a lot of e-mails?		
	33:02 A. Yes.		
	33:03 Q. How many e-mails would you say you get		
	33:04 a day? Ten? Twenty? Thirty?		

MH_FINAL - K. Michael Hays Final Designations

DESIGNATION	SOURCE	DURATION	ID
33:05	A. Thirty.		
33:06	Q. Okay. So 30 e-mails a day is over		
33:07	10,000 a year?		
33:08	A. Quick -- quickly, I would imagine it's a		
33:09	lot, yes.		
33:10	Q. So if we go back to 2011 or 2012,		
33:11	you'd probably received -- what? -- over a hundred		
33:12	thousand e-mails since then?		
33:13	A. Let's stipulate I receive a hundred		
33:14	thousand, yes.		
33:15	Q. Okay. You don't remember all the		
33:16	e-mails you received, do you?		
33:17	A. Certainly not.		
33:18	Q. And do you sometimes fail to read		
33:19	e-mails when they come in?		
33:20	A. Certainly. But -- go ahead. Certainly.		
33:21	Q. Now -- I'm sorry. You look like you		
33:22	were about to say something. I didn't want to cut		
33:23	you off.		
33:24	A. Well, I mean, I just wanted to point out the		
34:01	obvious, that, you know, it takes you -- it takes		
34:02	one, you know, two seconds to dismiss the majority		
34:03	of the e-mails.		
34:04	Cases of tenure, cases of any		
34:05	sort of promotion or any sort of review process are		
34:06	among the most important things we do that serve our		
34:07	field and our discipline and not just our own		
34:08	schools.		
34:09	So it is -- it is		
34:10	extraordinarily important that we perform these		
34:11	professional duties for other schools, and they for		
34:12	us, and those e-mails you don't forget and you don't		
34:13	miss.		
34:14	And the only other thing I would		
34:15	reiterate is -- and I say this with some pride that		
34:16	I had, because I think I only received a private		
34:17	administrative assistant right around this time, and		
34:18	you -- and I noticed as I was looking at		
34:19	Helene Furjan's case, you know, there were four or		
34:20	five e-mails between me and David Leatherbarrow, and		
34:21	that kind of -- because these things do get delayed.		

MH_FINAL - K. Michael Hays Final Designations

DESIGNATION	SOURCE	DURATION	ID
34:22	I missed the deadline. My own assistant picked up		
34:23	the correspondence and started helping me catch up.		
34:24	And I think the same thing would have happened. Had		
35:01	I missed an e-mail, an important one, my assistant		
35:02	would have direct access to it and would have		
35:03	caught -- certainly would have caught it.		
35:04	As you can actually see, she		
35:05	did, the assistant did, in the case of Furjan.		
35:06	Q. Stacy Buckley was your assistant?		
35:07	A. That's correct.		
35:08	Q. Does she still work for you?		
35:09	A. She does not. She works at Harvard, as far		
35:10	as I know, but she left the School of Design.		
35:11	Q. Had you asked her to check her e-mails		
35:12	to see if she has any relating to Cathrine Veikos or		
35:13	any request to review Cathrine Veikos?		
35:14	A. I did ask -- the administrative people are		
35:15	in a separate -- she would not have been in my		
35:16	office. She would have been in a separate office of		
35:17	administrators. And I asked them. And they would		
35:18	explain to me that, when a staff person leaves GSD,		
35:19	their computer is wiped -- is wiped clean before		
35:20	another staff person can use it. And so any --		
35:21	anything Stacy had would have either been sent to me		
35:22	or would have just been wiped clean.		
35:23	Q. So if Stacy Buckley did have an		
35:24	e-mail -- and I'm not saying she did, but if she did		
36:01	have any e-mails relating to Cathrine Veikos's		
36:02	tenure candidacy from 2011 or 2012, they would be		
36:03	gone and not recoverable, right?		
36:04	A. If it did not have -- if it were not copied		
36:05	to me also, then it would be gone.		
36:06	Q. You mentioned that e-mails about		
36:07	tenure reviews, requests for tenure reviews, are		
36:08	very important, and you see those and respond right		
36:09	away; is that correct?		
36:14 - 41:01	Hays, Deposition 2022-11-21	00:05:55	MH_FINAL.16
36:14	A. I would not say respond right away,		
36:15	necessarily. You would see them.		
36:16	Q. Do you ever just fail to see an e-mail		

MH_FINAL - K. Michael Hays Final Designations

DESIGNATION	SOURCE	DURATION	ID
36:17	because you were too busy to read it?		
36:18	A. I really believe this, Mr. Banks, that I		
36:19	have never failed to respond to an e-mail regarding		
36:20	any sort of promotion.		
36:21	Even if I would say I simply		
36:22	cannot, either because I don't know the person or I		
36:23	don't have -- and you don't say you don't have time.		
36:24	You say, you know, I'm taking a medical leave of		
37:01	absence and cannot perform this function, but you		
37:02	would always respond, I believe, even if you can't		
37:03	do it. It's that important. It's our version of a		
37:04	legal obligation.		
37:05	Q. Okay. Let's take a look at		
37:06	Exhibit P-35. Would you go to the second page of		
37:07	the document.		
37:08	I take it you have a printed		
37:09	version there?		
37:10	A. I do.		
37:11	Q. All right. Let's go to the second		
37:12	page. It's an e-mail from David Leatherbarrow to		
37:13	you, dated October 5th of 2011? This is his		
37:14	original request that you write an external review		
37:15	letter for Helene Furjan, right?		
37:16	A. Right.		
37:17	Q. He writes to you on October 5th, 2011,		
37:18	and says, "Dear, Michael, I hope all is well with		
37:19	you. I'm writing with a request: Would you be		
37:20	willing to write a letter of evaluation for one of		
37:21	my colleagues here at Penn, Assistant Professor		
37:22	Helene Furjan"? Do you see that?		
37:23	A. Yes, yes, of course, yes.		
37:24	Q. Okay. And then let's go to the first		
38:01	page, up to the first page of the document. It		
38:02	looks like 16 days went by with no response from		
38:03	you; is that correct?		
38:04	A. Yes.		
38:05	Q. Sixteen days after he wrote to you, he		
38:06	wrote back, on October 21st of 2011, and said,		
38:07	"Michael, I'm wondering if I'm using an incorrect		
38:08	e-mail address. Please let me know if you received		
38:09	this message and if you might be able to write the		

MH_FINAL - K. Michael Hays Final Designations

DESIGNATION	SOURCE	DURATION	ID
38:10	letter I request."		
38:11	Do you see that?		
38:12	A. I do.		
38:13	Q. And you wrote back to him that same		
38:14	day, on October 21st, 16 days after his request,		
38:15	saying, "Hi, David. Apologies. You have the right		
38:16	e-mail. It's just that Mohsen --" M-O-H-S-E-N --		
38:17	"has me too overworked to read them all."		
38:18	What is Mohsen?		
38:19	A. Well, that's a double thing.		
38:20	Mohsen Mostafavi at that time was the dean of the		
38:21	Graduate School of Design at Harvard, and he had		
38:22	just appointed me associate dean. This is how I got		
38:23	the assistant I'm so proud of.		
38:24	David Leatherbarrow and Mohsen		
39:01	were extremely good friends. Mohsen taught at Penn.		
39:02	So it was kind of slightly humorous that his friend		
39:03	Mohsen, David's friend Mohsen, was so overworking me		
39:04	in my new job that -- it was a little bit of joke in		
39:05	an effort to try to excuse -- by the way, may I say,		
39:06	though, Mr. Banks, that's not that long to answer an		
39:07	e-mail in academic circles. We don't answer e-mails		
39:08	necessarily the next day or the first day. This is		
39:09	not that long.		
39:10	Q. Okay. But your response wasn't "I		
39:11	read it." Your response was that you were too		
39:12	overworked to read them all. Right?		
39:13	A. Yes, but what are we talking about?		
39:14	Five days.		
39:15	Q. Sixteen days.		
39:16	A. Sixteen days. Yes. Okay. I understand. I		
39:17	just would say that, to me, in academic circles,		
39:18	that's a late -- that's a late response, but it's		
39:19	not an embarrassingly late response, for me.		
39:20	Q. But beyond the timing of the response,		
39:21	what you were saying was that you were so overworked		
39:22	you didn't have time to read all your e-mails,		
39:23	right?		
39:24	A. Right. But I did read it and responded		
40:01	two weeks later.		
40:02	Q. You responded when he followed up		

MH_FINAL - K. Michael Hays Final Designations

DESIGNATION	SOURCE	DURATION	ID
40:03	16 days later, not to the original e-mail, correct?		
40:04	A. Correct.		
40:05	Q. Okay. And then you asked what kind of		
40:06	deadline he would be facing. This is in your		
40:07	October 21st e-mail, when you wrote, "Can it wait		
40:08	until after Thanksgiving?" Do you see that?		
40:09	A. Yes.		
40:10	Q. That was on October 21st. He then		
40:11	wrote back to you two and a half months later, on		
40:12	January 10th of 2012, about six weeks after		
40:13	Thanksgiving, to ask you again about your ability to		
40:14	write the Furjan letter, correct?		
40:15	A. Correct.		
40:16	Q. And you responded to him on		
40:17	January 10th, two days later, saying, "Sincere		
40:18	apologies. For every pre-term fire I help		
40:19	extinguish, two more flare up."		
40:20	You were trying to get across to		
40:21	him that you were very, very busy, right?		
40:22	A. Right.		
40:23	Q. And you wrote, "I will have this to		
40:24	you by Friday, e-mail."		
41:01	A. Right.		
42:03 - 42:12	Hays, Deposition 2022-11-21	00:00:29	MH_FINAL.17
42:03	Q. Well, you e-mailed back to David		
42:04	Leatherbarrow on January 12, 2012, at 9:51 a.m. Do		
42:05	you see that?		
42:06	A. Not --		
42:07	Q. It's the top of the first page.		
42:08	A. Yes, yes, yes, yes, yes.		
42:09	Q. Okay. And then your actual letter on		
42:10	behalf of Helene Furjan was sent out the next day,		
42:11	on January 13, correct?		
42:12	A. Okay. Yes. You know --		
45:15 - 49:22	Hays, Deposition 2022-11-21	00:05:46	MH_FINAL.18
45:15	Q. Professor Hays, did it sometimes take		
45:16	you months to respond to e-mails?		
45:17	A. It -- I actually don't know that it's ever		
45:18	taken me that long, but it didn't take me that long		
45:19	in this case.		

MH_FINAL - K. Michael Hays Final Designations

DESIGNATION	SOURCE	DURATION	ID
45:20	Q. Take a look at Exhibit P-34, please.		
45:21	A. You mean the top -- what's at the top?		
45:22	Q. Yes. It's at the top. The top e-mail		
45:23	is from you to Cathrine Veikos.		
45:24	A. Okay.		
46:01	Q. Do you see that?		
46:02	A. Yes.		
46:03	Q. Professor Veikos wrote to you on		
46:04	July 24th in which she told you she had been denied		
46:05	tenure at Penn, and it looked like -- looks like it		
46:06	took you two months to respond, correct?		
46:07	A. Looks like. Huh. Yes, looks like.		
46:08	Q. Okay. Have you ever read		
46:09	Professor Veikos's book about Lina Bo Bardi?		
46:10	A. I read the manuscript. I did not read		
46:11	the -- I own the published book, but I did not read		
46:12	the published book. Again, I read the manuscript.		
46:13	Q. When did you read the manuscript?		
46:14	A. Oof. I certainly saw the manuscript -- the		
46:15	manuscript was a primary part of what I had advised		
46:16	her on. So she had somehow sent that. Or I had --		
46:17	or she probably -- I had that, you know, before --		
46:18	that's part of what I was referring to when I said		
46:19	that I helped her organize the work. I don't -- I		
46:20	don't recall the date. I don't. It was -- it was		
46:21	all within a couple of months of that initial		
46:22	correspondence.		
46:23	Q. So when Professor Veikos reached out		
46:24	to you to ask for assistance on how to position		
47:01	herself better for tenure, tenure review at Penn,		
47:02	she sent you her manuscript; is that right?		
47:03	A. Yes, I don't know if -- I don't know how		
47:04	many -- I don't know how many exchanges, different		
47:05	exchanges there were. I don't -- I don't remember a		
47:06	lot of phone calls. I remember the one. But I'm		
47:07	sure there were exchanges saying "Oh, could you --"		
47:08	you know, I'm sure there were exchanges where		
47:09	eventually she sent -- I think even -- it's funny		
47:10	because this did overlap a little bit with Helene's.		
47:11	And so I remember vividly Helene's submission		
47:12	because it was already kind of packaged. It was		

MH_FINAL - K. Michael Hays Final Designations

DESIGNATION	SOURCE	DURATION	ID
47:13	more formal.		
47:14	I think Cathrine kind of		
47:15	trickled in with drafts and stuff. But that's		
47:16	because we were -- you know, she knew that I didn't		
47:17	mind reading incomplete things at that point.		
47:18	It's hard to say when I got		
47:19	that.		
47:20	Q. But you read it as part of the process		
47:21	of helping her with her tenure candidacy, right?		
47:22	A. Yes.		
47:23	Q. At the time she sent you the		
47:24	manuscript, had it been accepted for publication?		
48:01	A. I don't recall.		
48:02	Q. Was it in -- as you understood it, was		
48:03	it in final form?		
48:04	A. It was in penultimate form. It always -- it		
48:05	had not, as I -- I don't believe that it had gone		
48:06	final copy edit, no.		
48:07	Q. Did you make any suggestion, editorial		
48:08	or otherwise, about potential revisions or changes		
48:09	to the manuscript?		
48:10	A. I did not -- sometimes, if I'm reading a		
48:11	manuscript, if it's agreed upon, I'll actually -- to		
48:12	mark up things. And to do a substantial content		
48:13	edit, I did not do that with Cathrine's. It would		
48:14	have been a read. It would not have been a markup		
48:15	or a content edit.		
48:16	It would have been -- the level		
48:17	of generality would have been, okay, you're not		
48:18	treating her objects as formal things without being		
48:19	attached to her intention. You're treating it based		
48:20	on your -- also your work on her diaries and on her		
48:21	notes. And what -- the advice would have been, make		
48:22	sure your reader understands that you're talking		
48:23	about her practice and her -- as well as the objects		
48:24	she produced.		
49:01	And that's an important part in		
49:02	the difference between the way historians work.		
49:03	Cathrine was writing on Bo Bardi as a practicing		
49:04	architect, which is definitely different than the		
49:05	way a historian trained in art history would write		

MH_FINAL - K. Michael Hays Final Designations

DESIGNATION	SOURCE	DURATION	ID
	49:06 about it.		
	49:07 So it would have been that kind		
	49:08 of advice for her.		
	49:09 Q. Did you give that kind of advice or		
	49:10 make those kind of comments when you saw the draft		
	49:11 of the manuscript?		
	49:12 A. I did. I did.		
	49:13 Q. Were those comments or was that advice		
	49:14 that you gave to her over the telephone or in an		
	49:15 e-mail?		
	49:16 A. Yes, this was would have been that phone		
	49:17 call. I've forgotten the date now. But it's -- the		
	49:18 phone call is documented somewhere here, yes. It		
	49:19 would have been in that phone call.		
	49:20 Q. Did Professor Veikos modify or amend		
	49:21 the manuscript to address your comments, if you		
	49:22 know?		
50:01 - 50:09	Hays, Deposition 2022-11-21	00:00:27	MH_FINAL.19
	50:01 A. Yes, I just don't know.		
	50:02 Q. And you never read any version of the		
	50:03 manuscript after the draft that she gave you and		
	50:04 before you made comments to it.		
	50:05 A. That's correct.		
	50:06 Q. Is that correct?		
	50:07 A. That's correct. I don't know when the book		
	50:08 appeared. And can I also say that I don't -- yes, I		
	50:09 don't know when the book appeared exactly, yes.		
51:07 - 51:15	Hays, Deposition 2022-11-21	00:00:18	MH_FINAL.20
	51:07 Q. I do. Just one, actually,		
	51:08 Professor Hays.		
	51:09 Has Mr. Banks given you any		
	51:10 documents, e-mails or otherwise, that suggest that		
	51:11 you were in fact asked to be an external reviewer		
	51:12 for Cathrine Veikos's tenure case?		
	51:13 A. No.		
	51:14 MS. UEHLER: No further		
	51:15 questions.		

Plaintiff Direct

00:44:30

MH_FINAL - K. Michael Hays Final Designations

TOTAL RUN TIME

00:44:30